

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

This case has previously been before the Board on another issue.² The facts and circumstances as set forth in the Board's prior decisions are incorporated herein by reference. The relevant facts are as follows.

On October 17, 1997 appellant, then a 26-year-old firefighter, filed a traumatic injury claim (Form CA-1) alleging that on October 15, 1997 he injured his right knee when hiking on a hillside while in the performance of duty. OWCP accepted the claim for right knee and leg sprain, right patella chondromalacia, right plica syndrome, and aggravation of right lower leg osteoarthritis. It authorized right knee arthroscopies, which were performed on March 3, 1998, February 9, 1999, September 6, 2000, March 3, 2003, January 26, 2010, and March 1, 2016. Appellant returned to his full-time date-of-injury job on June 9, 2016.

On April 26, 2021 appellant filed a notice of recurrence (Form CA-2a) alleging a need for additional medical treatment for his right knee conditions beginning March 22, 2021. He claimed that his right knee was very unstable which was why he required further medical treatment by an orthopedic physician.

In a development letter dated April 29, 2021, OWCP requested that appellant submit additional evidence in support of his claim, including a physician's opinion supported by a medical explanation establishing the relationship between his current need for medical treatment and the accepted employment conditions. It provided a questionnaire for his completion, which posed questions regarding his medical treatment. OWCP afforded appellant 30 days to respond.

In a completed questionnaire dated May 4, 2021, appellant explained that he had not missed work due to his injury, but that he had the same right knee pain since the October 15, 1997 employment injury and that the pain was worsening.

In a letter dated May 5, 2021, OWCP noted that appellant had indicated on his Form CA-2a that on March 22, 2021 at 7:00 a.m. he felt pain in his right knee. It requested that he explain where he was at 7:00 a.m. on March 22, 2021 when he felt the pain and whether he was at work.

In a May 17, 2021 response, appellant related that he was at work at the time in question.

By decision dated July 30, 2021, OWCP denied appellant's recurrence claim for medical treatment finding that the evidence of record was insufficient to establish a worsening of the accepted work-related conditions requiring further medical treatment.

LEGAL PRECEDENT

The United States shall furnish to an employee who is injured while in the performance of duty the services, appliances, and supplies prescribed or recommended by a qualified physician

² Docket No. 18-0782 (issued January 11, 2019); Docket No. 14-796 (issued September 12, 2014).

that the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of any disability, or aid in lessening the amount of any monthly compensation.³

A recurrence of a medical condition means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage.⁴ An employee has the burden of proof to establish that he or she sustained a recurrence of a medical condition that is causally related to his or her accepted employment injury without intervening cause.⁵ To meet this burden the employee must submit medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, supports that the condition is causally related and supports his or her conclusion with sound medical rationale.⁶ Where no such rationale is present, medical evidence is of diminished probative value.⁷

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a recurrence of the need for medical treatment on or after March 22, 2021 causally related to his accepted October 15, 1997 employment injury.

Appellant filed a notice of recurrence of medical treatment (Form CA-2a) due to worsening right knee pain beginning March 22, 2021. In a development letter dated April 29, 2021, OWCP advised him regarding the medical and factual evidence required to establish his recurrence claim. In response, appellant answered questions posed on the questionnaire, however, he did not, submit any medical evidence.

It is appellant's burden of proof to submit evidence establishing that he required further medical treatment for his accepted right knee conditions on or after March 22, 2021 as a result of his accepted October 15, 1997 employment injury.⁸ As he has not submitted any medical evidence showing a recurrence of medical condition due to his accepted October 15, 1997 employment injury, the Board finds that he has not met his burden of proof.⁹

³ 5 U.S.C. § 8103(a).

⁴ 20 C.F.R. § 10.5(y).

⁵ *S.P.*, Docket No. 19-0573 (issued May 6, 2021); *M.P.*, Docket No. 19-0161 (issued August 16, 2019); *E.R.*, Docket No. 18-0202 (issued June 5, 2018).

⁶ *T.B.*, Docket No. 18-0672 (issued November 2, 2018); *O.H.*, Docket No. 15-0778 (issued June 25, 2015).

⁷ *T.B.*, *id.*; *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988); *see also Mary A. Ceglia*, Docket No. 04-0113 (issued July 22, 2004).

⁸ *C.B.*, Docket No. 19-0121 (issued July 2, 2019); *E.G.*, Docket No. 18-1383 (issued March 8, 2019); *see also C.J.*, Docket No. 18-1181 (issued May 20, 2019); *A.L.*, Docket No. 16-1092 (issued May 9, 2017); *Mary A. Ceglia*, *id.*

⁹ *See C.B.*, *id.*; *E.R.*, Docket No. 18-0202 (issued June 5, 2018).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a recurrence of the need for medical treatment on or after March 22, 2021, causally related to his accepted October 15, 1997 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the July 30, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 11, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board